

REMARKS

This is in response to the Examiner's Report of 12/31/2007.

In the claims, Claim 19 has been amended in light of the newly cited MAY (US 114,584) reference and the Examiner's comments and objections. The subject strut members are now defined in part as being :

“ pairs of unitary, laterally flexible load-bearing strut members extending continuously in contained relation between said framework end members, having intermediate longitudinal portions of each said strut member pair in alternating converging and diverging mutually inclined flexed relation, “

In the case of MAY, his prison grating consists of grate-bars B “of hardened steel, or composed of either hard and soft steel or soft iron and hardened steel”. In either case these neither are flexible, nor do they, in any orthodox structure, serve any role whatsoever in the way of longitudinal load-bearing struts, being in normal building practice merely inserted into a window recess and cemented into place. Furthermore, in their manufacture they are, of necessity pre-bent into their permanent shape before being bolted or riveted together, without any sign or teaching of a “flexed relation”.

In extreme contrast to May, the laterally flexible strut members of the present invention are defined as “extending in connected, load-bearing relation [between] with said framework end members.”

A mere similarity of general appearance cannot in any extreme serve as an anticipation of the present invention. May is totally silent on any aspect of his grate serving in a vertical, load bearing or load transmitting structural role. His purpose in securing his prison bars is to make them impervious to attempts to saw their interconnecting bolts or rivets, in order to separate the bars.

Not only is May silent on any longitudinal load component being applied to his bars, but his bars have to be made up in their final form before installation, such that they are totally unsuited to the role of a load-bearing structure.

In the case of Leung, his purpose is to provide “such a shear wall panel that does not require structural sheathing or interior vertical studs” [para 0007 lines 5 & 6], and his use of bracing timbers to provide shear wall panels relies upon the use of doubled two-inch (nominal) timbers [para 0048, line 5] which are discontinuous in length (i.e. – do not extend between the top and bottom frame members as a continuous unitary thrust transmitting member, as in the present invention), and rely upon being secured at their ends by nailing through toothed metal plates 30 at their junctures [para 0034 at line 8], where reference also is made to “allow for small spaces between members 28” [0034- lines 9-11] . The Leung plates 30 are nailed to the frame side members in all his 11-figures, which totally precludes the direct transfer of downward thrust forces between the top and bottom members of Leung’s frame, and which provides a cumbersome, heavy, transverse-shear resistant structure entirely lacking in the structure characteristics now defined in the presently amended claims.

It is of significant interest that Leung’s frames are “suitable for pre-assembly in a factory” [para 0007, at lines 6&7], and are so labour intensive as to be entirely unsuited to assembly on the site. It strains the bounds of credulity to describe the lengths of nominal two-inch lumber of Leung as being “laterally flexible”, particularly as he has gone to the extreme lengths in all his figures of nailing lengths of such lumber into rigid structures of two and even three thicknesses of 2” lumber, for total rigidity. Quite obviously, lateral flexibility is a most undesired quality for Leungs diagonal braces.

In amending Claim 2 the alternative term “structural panel unit” is now inserted for purposes of precedent , justification for its use being found at page 2 of the specification (second full paragraph) where it is referred to as “a panel in the form of an eight foot long section of partition wall”, which is unarguably a “structural panel unit”.

Claims 4 through 7, 12, 14, and 17 have been amended in order to reinstate the term “structural panel unit”, as justified, above.

The inclusion of the previously recited Kirk reference with his use of glue per se has no novelty, being merely for the purpose of securing the members of a taped, bevel joint, being applied internally of the corners of his C-channel, and not for the purpose of external application for attachment of deformable struts to adjoining structural members, as in the present application, to preserve the slender strut members against transverse warping that might arise due to their flexible nature. Kirk's use of glue does not cure the deficiencies of the Leung reference, nor does it anticipate in any way the use of glue in the present application for the attachment of strut segments to extraneous structural members. The structural panel unit as now defined in Claim 6 constitutes a new and novel combination that the combining of Kirk with Leung does not anticipate, nor in any way make obvious.


The combining with Leung of Cable, (US 4,325,054), with his orthodox channeled metal studs, used as straight, rectilinear load bearing members cannot overcome the deficiencies of the Leung reference, nor make obvious the presently claimed structure of Claims 14 through 17.

Concerning Griffin (US 6,263,628), the absence of any teaching of the use of the foam core 12 to "resist lateral deformation of said studs", as referred to by the Examiner has already been dealt with in detail in the previously presented Declaration by the present Inventor. The combining of Griffin with Leung fails to anticipate or make obvious the novel construction defined in Claim 18.

It is respectfully submitted that the presently amended claims clearly and patentably define over the Leung, May and all referred and inferred references, taken singly or in combination.

Consideration with a view to allowance is requested.

Respectfully submitted,


Douglas W. EGGINS B.Sc. P.Eng. Patent Att.
Regn. 21,175